



END

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: pending Patent Application	:	Docket # 031004
of:	:	
Hobson, et al.	:	Group Art Unit: 1751
	:	
	:	Examiner: Gregory DelCotto
Serial No. 10/800,788	:	
	:	
Filing Date 03/16/2004	:	certified mail 7004 1160 0000 6797 1889
	:	
For: "ORGANIC PEROXYACID	:	
PRECURSORS"	:	

3/9/06

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate of Mailing

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Christopher J. Ashwell

RESPONSE TO RESTRICTION REQUIREMENT

Applicants now acknowledge receipt of a restriction requirement in the above-identified pending Application for patent, dated February 24, 2006. This is a Response to that restriction requirement.

The Groups of the claims originally filed in this case, per the 2/24/06 Office Action are as

follows:

Group	Claims	Class	Subclass
I	1-27	510	376
II	28-62	422	28

Applicants respectfully submit that while the Claims of Group II could be viewed as being within class 422, subclass 28, the language of the process claims 28-62 is such that they are limited to the use of the compounds described in Group I. This means that in order to examine the claims of Group II, it would also be necessary for the Examiner to examine class 510, subclass 376 of Group I.

Therefore, if Group II were elected, the class/subclass of Group I would need to be searched. If Group I were elected and found allowable (which seems likely since nearly-identical composition claims are now patented in US 7,005,549), then Group II would necessarily be patentable because these process claims are limited to only using the compounds of Group I.

If Applicants were to elect Group II, then class 422/28 would need to be searched, in addition to 510/376, because Applicant's process claims are limited to the use of the compounds in Group I. This would mean that both sets of class/subclass would need to be examined for the particular compounds of interest, and thus looking for the compositions would be an inherent part of the examination process and not require any additional effort.

The Examiner is therefore respectfully requested to consider his position and consider the potential withdrawal of the restriction requirement, as it would save Applicants significant time and money on what appears to be clearly patentable in view of the recent issuance to Applicants

Favorable reconsideration and withdrawal of the Restriction Requirement dated 2/24/06 is thus respectfully requested. In the event that the Examiner will not withdraw the Restriction Requirement, Applicant respectfully requests that the Examiner make the requirement final in the next Office paper so that the Applicant may file a Petition with the Commissioner for Review.

Towards advancement of prosecution of this matter, in the event the Examiner does not agree that restriction is improper, then Applicant's hereby elect the claims of Group I, claims 1-27 for prosecution on the merits. The species elected is that in which the hydrocarbyl groups R₁, R₂, R₃, R₄, and R₅ are all ethyl groups. This election by Applicants is made with traverse.

Our election of Group I also means that examination of class 422/28 should not be necessary in considering patentability of Group II, if the composition claims of Group I are allowable, since the process claims are limited to the compositions of Group I, and it could not be obvious for one of ordinary skill to employ compounds not known to exist to those other than Applicant's at the time their inventions were made; nor could such Group II claims be anticipated by the prior art.

So no matter which Group Applicants elect, the other Group's patentability appears to be readily determinable. For this reason, the instant claims should not be restrictable.

Thank you for your consideration.

respectfully submitted,

A handwritten signature in black ink, appearing to read "Christopher J. Whewell". The signature is fluid and cursive, with the first and last names being more prominent.

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